mpt

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2626 OF 2007

Jinendra Ratilal Shah & Anr. .. Petitioners

versus

State of Maharashtra .. Respondent

...

Mr.A.P. Mundargi i/b Prakash Naik for the petitioners
Mr.Rajesh More APP for the State.

CORAM : D.G.KARNIK, J

DATED : 18th December 2007

P.C.:

1. Heard learned counsel for the petitioner and learned APP for the State.

2. On the last date i.e. 20th November 2007 time was sought by the prosecution for instructions and filing additional affidavit regarding the manner in which the capacitors are tested. No affidavit has been filed. Learned APP states that even today, the Investigating Officer is not present and he has not instructed him the procedure of testing of

capacitors.

3. The allegation against the petitioners is that he raised false bills when the capacitors were not working. There is no material on record to show in what manner the capacitors were tested by the complainant or by the Investigating Agency for even prima facie coming to the conclusion that the bills were raised when the capacitors were not in working condition. Learned APP states that he has no knowledge as to the manner in which the capacitors are tested to find out whether they were working.

4. The case against the petitioner is based upon the documentary evidence viz. the alleged false bills. The petitioner is Executive Director of the company with a turnover of several crores. The petitioner has a permanent place of residence at the address mentioned in the title of the application. There is no possibility of his abusing the concession of bail by absconding.

5. It appears that there is a civil dispute between his company and the power company. Learned counsel for the petitioner states that the dispute between them has been referred to arbitration and this Court (Hon'ble The Chief Justice) has already appointed arbitrators under section 11 of the

Arbitration and Conciliation Act.

6. In the facts and circumstances of the case, the applicatoin is allowed as follows:-

7. In the event of arrest of the petitioner in connection with Crime C.R.no.51 of 2007 for alleged offences punishable u/s.420 405, 409, 464, 468 and 471 of the IPC, petitioner shall be released on bail on personal bond of Rs.Two lakhs with two sureties of the like amount subject to the following conditions:-

i) The petitioner shall make himself available for interrogation as and when required by the police.

ii) The petitioner shall within 7 dayshereof, inform to the police the place where he can be contacted as well his telephone numbers, landline as well as mobile for being contacted, if required.

iii) The petitioner shall not make any inducement or threats to any of the prosecution witness nor in any manner tamper with the prosecution evidence.

Any breach of the conditions of this order shall result into the cancellation of bail.

. Application is disposed of accordingly.

(D.G. KARNIK, J)